

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY  
RE: PROCLAIMER POLICY WITH RESPECT TO ACQUISITION  
OF PROPERTY

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WHEREAS, the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121 of the General Laws of the Commonwealth of Massachusetts, hereinafter referred to as the "Authority", entered into contracts with the Department of Housing and Urban Development, and

WHEREAS, pursuant to such contracts the Authority is undertaking necessary activities for the acquisition of real property, and

WHEREAS, regulations promulgated by the Department of Housing and Urban Development require the Authority to adopt a policy statement setting forth the procedures of the Authority with respect to the acquisition of real property:

NOW, THEREFORE, BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY:

THAT the following Land Acquisition Policy Statement is hereby adopted:

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INTRODUCTION

In order to carry out the approved urban renewal plans and early land programs for the City of Boston, the Boston Redevelopment Authority is obligated, among other things, to acquire, in whole or in part, real property including land, buildings, structures and other improvements, appurtenances, rights-of-way, easements, and other rights and interests, within each project area.

BASIC OBJECTIVE OF REAL ESTATE ACQUISITION PROGRAM

In carrying out its real estate acquisition program, the Authority shall:

- (1) Recognize its obligation impartially to protect the interests of all concerned, to pay fair prices to owners, and to prevent the payment of prices that are excessive.
- (2) Make every reasonable effort to reach agreement with each property owner as to the price to be paid for his property before instituting condemnation proceedings.

- (3) Use available acquisition methods and practices such ways as to minimize hardship to owners and tenants.
- (4) Conduct its appraisal, property inspection, negotiation, and condemnation activities so that any condition or occupancy of property in violation of law will be given rightful consideration in determining the purchase price.
- (5) Adopt effective measures to prevent speculation in the properties to be acquired.
- (6) Acquire properties in a manner fully consistent with the foregoing principles and negotiation policy prescribed in Sec. 7208.1, Chapter 4, Section 2 of the Urban Renewal Handbook.

#### COORDINATION WITH OTHER ACQUISITION PROGRAMS

The Authority shall coordinate its acquisition of project land with other public acquisition programs whenever savings in project costs can be effected.

The Authority shall pay its proportionate share of the total acquisition and demolition cost of a parcel acquired in cooperation with another agency. The total cost of land, improvements, and incidentals shall be prorated on the basis of the land area, unless another basis is justified as being more equitable to the agencies involved.

The Authority shall, when feasible, arrange for collaboration in the use of appraisal reports, title evidence, and negotiating services, with the costs to be shared equitable. The Authority shall also agree to consolidation of the trial of condemnation proceedings when feasible.

#### TIMING OF REAL ESTATE LAND ACQUISITION

Land will not be acquired by the Authority in any project area prior to the effective date of:

- (1) The Loan and Grant Contract.
- (2) The Temporary Loan Contract in the case of an early land acquisition project.

After the effective dates referred to above, the Authority shall begin land acquisition with the least possible delay.

### STAGING OF ACQUISITION ACTIVITIES

The Authority will acquire land in each project area in stages where possible.

The governing considerations in staging schedules will be:

- (1) The relocation of families and businesses with minimum hardship to those being displaced;
- (2) The protection of the rights of owners and occupants;
- (3) The requirements of the redevelopment schedules.

In order to protect the best interest of both owners and occupants, the Authority will consider, if requested to in writing, the acquisition of property in advance of staging schedules.

### REMOVAL OF CERTAIN RESTRICTIONS

The Authority shall take all steps to remove or abrogate any legally enforceable provisions in any instruments which restrict the ownership, use, or occupancy of any land acquired by the Authority on the basis of race, religion, color or national origin.

### BASIC POLICY FOR REAL ESTATE ACQUISITION

In acquiring real property for any project, the Authority will:

- (1) Make every reasonable effort to acquire each property by negotiated purchase before instituting eminent domain proceedings against the property.
- (2) Not require any owner to surrender the right to possession of his property until the Authority pays, or causes to be paid, to the owner (a) the agreed purchase price arrived at by negotiation, or (b) after condemnation, where only the amount of payment to the owner is in dispute, not less than 75 percent of the appraised fair value as approved by the Authority or the Department of Housing and Urban Development.
- (3) Not require any person lawfully occupying property to surrender possession without at least 120 days' written notice from the Authority of the date on which possession will be required.

#### ESTABLISHMENT OF FAIR MARKET VALUE OF PROPERTY TO BE ACQUIRED

At least two satisfactory, independent appraisals will be required for each parcel to be acquired by the Authority. Third appraisals will be obtained when deemed necessary by the Real Estate Director and the General Counsel and in accordance with the procedures and conditions contained in HUD Circular Letter RHM 7208.1, dated December 4, 1970. Wherever special appraisals are required for special purpose properties, machinery or equipment, appraisers with special training and skills will be employed by the Authority.

The completed appraisals will be reviewed under the direction of the Real Estate Director. After the appraisals have been reviewed, the Real Estate Director will recommend to the Authority the fair market value to be established for each parcel.

Based upon the appraisal and the recommendation of the Real Estate Director and the concurrence of the General Counsel, the Authority will adopt a resolution establishing the fair market value of each parcel.

For single-family or duplex owner-occupants, the minimum price paid by the Authority shall be the average of the prices set forth in the independent appraisals.

The Director is authorized to certify to the Department of Housing and Urban Development a Proclaimer Certificate in a form approved by DHUD listing the parcels to be acquired. The list will be submitted within 30 days after adoption by the Authority and shall contain the area of each parcel, the dates of the appraisals and appraised values of the first, second and, if necessary, third appraisals for each parcel and the fair market value established for each parcel.

The Proclaimer Certificate will be utilized for the following classes of properties:

- (1) For which HUD concurrence in price has not yet been sought; i.e., for which a Form HUD-6144 has never been submitted.
- (2) Which are not in public ownership.
- (3) Which do not and did not at the time of filing of the Survey and Planning Application (or Request for Concurrence in Planning a Three-Fourths Grand Project with Limited Project Costs), involve any direct or indirect interest of any member of the LPA governing body or of the governing body of the Locality or any of the officers or employees of such bodies having a responsible function in connection with the urban renewal program.

- (4) For which the lower appraisal is less than \$100,000 (including fixtures which are real property) and for which the higher appraisal does not exceed the lower appraisal by more than 15 percent or more than 25 percent for all parcels for which the lower appraisal is less than \$7,500.
- (5) For which the fair value determination of the LPA is no higher than the highest acceptable appraisal and no lower than the lowest acceptable appraisal.

The proclaimer procedure for real estate acquisition is not to be utilized if the latest budget amount allowable for real estate acquisitions (including amounts available in contingencies) is exceeded by the sum of the following:

- (1) Cost of property previously acquired.
- (2) Acquisition prices previously approved by HUD for properties not acquired.
- (3) Fair market value determinations previously made by the LPA for properties not acquired but included in prior proclaimer certificates.
- (4) Fair market value determinations for properties included in proclaimer being filed.
- (5) The acquisition prices of the remaining properties to be acquired as those prices were estimated for the purpose of the latest budget amount allowable for real estate acquisition.

The proclaimer procedure will not be utilized for properties being acquired for rehabilitation and disposal by the Authority or for disposal to a redeveloper for rehabilitation.

No eminent domain proceedings shall be instituted for 30 days following receipt of the Proclaimer Certificate by H.U.D. This policy applies to both conventional eminent domain proceedings and to quick-taking condemnation.

#### POLICY FOR NEGOTIATIONS

In order to protect the interests of property owners, especially the unsophisticated or poorly informed who have limited ability to negotiate with Authority representatives, and to put all negotiations for the acquisition of real property on a basis that acknowledges and accepts the obligation of public entities to treat all owners fairly, impartially and consistently in negotiating the acquisition of their properties, the Authority will offer the owner initially the full amount of the price determined by the Authority to represent fair compensation for the property to be acquired.

Negotiations exempted from the foregoing initial-offer policy but which, nonetheless, are to be conducted in a fair and impartial manner are listed below:

- (1) property proposed for purchase from an owner who is under no compulsion to sell, i.e., where the Authority is not committed or required to acquire the property and will buy the property only if it can do so at an acceptable price and on an acceptable basis without resorting to a trial of the issue of value or compensation in an eminent domain proceeding;
- (2) property owned by the Federal government, a State or local government, or an instrumentality thereof;
- (3) property donated to the project;
- (4) property of an owner who voluntarily and knowingly offers to sell his property to the project for less than its fair market value and executes a statement to that effect;
- (5) any property for which the acquisition price is more than \$100,000, or any group of properties in the same ownership for which the sum of acquisition prices is more than \$100,000;
- (6) any specifically identified property or interest in real property, regardless of its value, of such an unusual character that the Authority finds, with Regional Office concurrence, that the fair compensation for the property should be determined by negotiating the basis of compensation and the amount thereof without first making a firm initial offer to the owner.

Examples of the kinds of property and property interests for which such a finding may be appropriate are cemeteries, railroad operating properties, utility easements, limited interests and servitudes in land, and special-purpose industrial plants and similar properties involving complicated or controversial determinations of what is a fixture, i.e., realty, and what is personalty.

#### PROCEDURE FOR NEGOTIATIONS

Negotiations with an owner of property shall be started as soon as feasible after the required appraisals of the property have been completed and the price determined to represent the fair compensation for the property has been established either by the Authority or Department of Housing and Urban Development.

In making the initial offer, the negotiator for the Authority shall explain to the owner in a personal interview, if feasible, the policy of offering owners initially, and without any bargaining, the full price determined on the basis of competent appraisal to be the fair compensation for the property.

During the first interview, each owner shall be furnished a written statement of the amount and the terms and conditions of the offer and an explanation of the steps the Authority will take if the owner elects to reject the Authority's offer.

The policy of offering initially the full price established by the Authority shall not be regarded or explained by negotiators or anyone else, as requiring or establishing an inflexible one-price system. Because the objective is the payment of fair and proper compensation, price adjustment can be made whenever required to correct a previously established acquisition price.

The Authority will make every reasonable effort to acquire each property by negotiated purchase before instituting eminent domain proceedings against the property.

If that effort is unsuccessful, the Real Estate Director will make a final offer to the owner in writing. The final offer shall include an invitation to discuss the acquisition of his property with the Real Estate Director, afford a reasonable time for the owner to accept or reject the invitation, and include a notification of the approximate date on which the Authority intends to institute eminent domain proceedings.

When the Authority acquires property by the exercise of its right of eminent domain in accordance with the provisions of Chapter 79 of the General Laws of the Commonwealth of Massachusetts, an award of at least 75% of the price established by the Authority or Department of Housing and Urban Development will be made to the owner. The award may be accepted in full settlement of the claim for damages or may be accepted as a payment pro-tanto pursuant to Chapter 79, Section 8A of the General Laws of the Commonwealth of Massachusetts.

After instituting a condemnation proceeding, the Authority shall continue to make every reasonable effort to reach agreement with each owner before trial of the proceeding.

MEMORANDUM

January 21, 1971

TO: BOSTON REDEVELOPMENT AUTHORITY  
FROM: OFFICE OF THE DIRECTOR  
SUBJECT: PROCLAIMER POLICY WITH RESPECT TO  
ACQUISITION OF PROPERTY

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The Department of Housing and Urban Development has promulgated new procedures with respect to the acquisition of properties. These regulations become mandatory effective November 15, 1970. A copy of the HUD Circular concerning the Proclaimer Policy is attached.

A proposed resolution authorizing the use of a Proclaimer Certificate is attached.

A proposed resolution setting forth the policies for the acquisition of real property by the Boston Redevelopment Authority is also attached. This resolution embraces the new requirements of the Department of Housing and Urban Development and Chapter 79 of the revised Statutes of the Commonwealth of Massachusetts.

It is requested that the Board adopt the attached Resolutions.

Attachments:

